

STATE OF NEW JERSEY
Department of Law and Public Safety
DIVISION OF ALCOHOLIC BEVERAGE CONTROL
1100 Raymond Blvd. Newark 2, N. J.

BULLETIN 1159

APRIL 3, 1957.

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STATE OF NEW JERSEY
Department of Law and Public Safety
DIVISION OF ALCOHOLIC BEVERAGE CONTROL
1100 Raymond Blvd. Newark 2, N. J.

BULLETIN 1159

APRIL 3, 1957.

1. DISCIPLINARY PROCEEDINGS - NUISANCE (HOMOSEXUALS PERMITTED ON PREMISES) - LICENSE SUSPENDED FOR 60 DAYS.

In the Matter of Disciplinary Proceedings against

CLOVER LEAF INN, INC.
T/a CLOVER LEAF INN, INC.
n/s Black Horse Pike
Hamilton Township
PO RD 1, Mays Landing, N. J.,

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consumption License C-41, issued by the Township Committee of the Township of Hamilton.

Cahill and Wilinski, Esqs., by William T. Cahill, Esq.,
Attorneys for Defendant-licensee.

Edward F. Ambrose, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

The Hearer has filed the following report herein:

"Defendant pleaded not guilty to the following charge:

'On June 8, 9, 16, 22 and 23, 1956, you allowed, permitted and suffered your licensed place of business to be conducted in such manner as to become a nuisance in that you allowed, permitted and suffered male and female impersonators and persons who appeared to be homosexuals in and upon your licensed premises; allowed, permitted and suffered such persons to frequent and congregate in and upon your licensed premises; and otherwise conducted your place of business in a manner offensive to common decency and public morals; in violation of Rule 5 of State Regulation No. 20.'

"At the hearing held herein an ABC agent testified that he, accompanied by other ABC agents, visited defendant's premises on the evenings of June 8, 1956, June 16, 1956, and June 22, 1956, and that on the first and third visits he and the agents who then accompanied him remained on the premises until the early hours of the following morning.

"The agent testified that he and two other agents entered the premises on June 8, 1956, at about 11:30 p.m. and took seats at the bar; that Joy Rex was acting as bartender; that he observed six females in groups of two; that all were dressed in slacks and blouses and that one in each group had facial make-up whereas the other had no make-up and appeared to impersonate a male.

"The agent further testified that he and another agent entered the premises on June 16, 1956, shortly after midnight and took seats at the bar; that he observed two females, identified as 'Renee' and 'Freddie' at the bar; that 'Renee' was dressed in female attire but that 'Freddie' was

dressed in slacks and a blouse and wore no make-up; that these two females danced together and that during the dance 'Freddie' kissed 'Renee' on the neck; that Joy Rex (the bartender) told him that 'Renee is Freddie's girl friend.' He further testified that five other females came in together; that three had make-up whereas the other two had no make-up and that the three took turns dancing with the other two; that, later, two males, who appeared from their talk to be homosexuals, entered the premises.

"The agent further testified that he and other agents entered the premises on June 22, 1956, at about 11:30 p.m. and took seats at the bar; that two females (one with make-up and one without make-up) danced together; that three females (including one called 'Betty' and another called 'Mickey') joined this group; that Joy Rex (the bartender) told the agent that 'Betty is Mickey's girl friend and goes out with her' and 'that most of our customers are gays and Lesbians. We get a few straights;' that two male couples, who acted in an effeminate manner, were also on the premises. The agents identified themselves about 1:15 a.m. to the bartender who then said to the agents 'I can't distinguish the difference between a gay and a straight. How am I supposed to know?'

"On cross-examination the agent admitted that the premises were open to the public; that patrons other than those described by him entered the premises during his visits, and that there was no evidence of any immoral activity other than that set forth above.

"It was stipulated that, if the other agents were called to testify, they would testify in substantially the same manner concerning the conditions they observed on their respective visits.

"On behalf of defendant, Helen N. Palma testified that she is treasurer of defendant corporation and that her husband, Louis Palma, president of the corporation, was then confined to a hospital. She testified that the corporation has been operating the licensed business about one and one-half years; that neither she nor her husband has been able to devote much time to the business; that Miss Rex 'came with the business' and continued to work for the corporation; that some people who came in 'acted very oddly, but as long as they conducted themselves in proper manner we didn't eject them from the premises.'

"After reviewing all the testimony I find that the licensee, by its agent, allowed, permitted and suffered female impersonators and persons who appeared to be homosexuals in and upon the licensed premises. Proper liquor control dictates that the congregating of such persons on licensed premises must be staunchly prohibited. Under the circumstances I recommend that defendant be found guilty as charged. Cf. Re Kaczka and Trobiano, Bulletin 1063, Item 1.

"Defendant has no prior record. Under all the circumstances of this case I further recommend that the license of defendant be suspended for sixty days. Re Rutgers Cocktail Bar, A Corp., Bulletin 1133, Item 2."

No exceptions were taken to the Hearer's Report within the time limited by Rule 6 of State Regulation No. 16.

After carefully considering the facts and circumstances herein, I concur in the recommended conclusions in the Hearer's Report and adopt them as my conclusions herein. I shall suspend defendant's license for sixty days.

Accordingly, it is, on this 13th day of February, 1957,

ORDERED that Plenary Retail Consumption License C-41, issued by the Township Committee of the Township of Hamilton to Clover Leaf Inn, Inc., t/a Clover Leaf Inn, Inc., for premises on n/s Black Horse Pike, Hamilton Township, be and the same is hereby suspended for sixty (60) days, commencing at 4:00 a.m. February 18, 1957, and terminating at 4:00 a.m. April 19, 1957.

WILLIAM HOWE DAVIS
Director.

2. DISCIPLINARY PROCEEDINGS - NUISANCE (HOMOSEXUALS PERMITTED ON PREMISES) - LICENSE SUSPENDED FOR 60 DAYS.

In the Matter of Disciplinary Proceedings against)

THE PADDOCK BAR, INC.)
T/a PADDOCK BAR)
810-812 Cookman Avenue)
Asbury Park, N. J.,)

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consumption License C-31, issued by the City Council of the City of Asbury Park.)

-----)
Braun and Hoey, Esqs., by Henry F. Hoey, Jr., Esq., Attorneys for Defendant-licensee.
Edward F. Ambrose, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

The Hearer has filed the following Report herein:

"Defendant has pleaded not guilty to the following charge:

'On April 6, 7, 8, 21 and 22, 1956, you allowed, permitted and suffered your licensed place of business to be conducted in such manner as to become a nuisance in that you allowed, permitted and suffered female impersonators and persons who appeared to be homosexuals in and upon your licensed premises; allowed, permitted and suffered such persons to frequent and congregate in large numbers in and upon your licensed premises; and otherwise conducted your place of business in a manner offensive to common decency and public morals; in violation of Rule 5 of State Regulation No. 20.'

"Three of the Division's agents participated in the investigation leading to the proceedings herein. In the testimony and comment hereinafter set forth, the full names of the agents will not be used but, instead, the initial letter of the last name, 'M', 'R' and 'D'.

"Agent 'M' testified that he and Agent 'D' entered defendant's licensed premises at 10:10 p.m. on April 6 and left the premises at 12:20 a.m. on April 7, 1956; that they again visited defendant's licensed premises at 10:20 p.m. on April 7 and departed at 12:55 a.m. on April 8, 1956; that on the April 6 visit, a man called John (subsequently identified as John Iannicelli) was tending bar and a woman (subsequently identified as Marion Brown, president of defendant corporate-licensee) sat at the bar and at times spoke to divers patrons; that at all times there were about twenty patrons in the premises during the evening, six of whom 'spoke in higher than normal tones, they held their cigarettes on the very tips of their fingers, they walked with a swaying of the hips and they giggled and carried on in an effeminate manner'; that during the course of the evening, Agent 'D' obtained a book of matches from the bartender (marked as an exhibit in evidence in the instant case) whereon, among other things, was printed the name and address of the defendant-licensee and the statement that the establishment was 'The Gayest Spot in Town'. Agent 'M' further testified that on the evening of April 7, John was again tending bar and Marion Brown was also in the premises; that on this occasion, at the height of the evening, there were in the premises about fifty males and two female patrons, the latter of whom 'had short-cropped haircuts, one was dressed in a mannish-type trench coat, wore a man's wrist watch and a man's identification bracelet'; that about forty of the male patrons 'spoke in higher than normal tones; walked in a swaying of the hips; combed their hair in a feminine manner in which they would hold a comb in one hand and fix the curls or place the hair with the other hand; they congregated in small groups and giggled loudly very much the way females would do'; that many of them referred to each other as 'Honey, Doll and Baby'; that 'One of these apparent homosexuals said to another, "They're not all married, you know. The single ones will be in later. My Albert will be in later". Another remark heard was, "Wrap your lips around this". A young sailor walked into the place and a male made a remark to another male and this male replied, "He's gay but he's young". This male made another remark and the first male said, "Oh, he doesn't go for that".' During cross-examination, Agent 'M' reiterated the actions which he observed on the occasions in question and further testified in answer to questions asked by the attorney for the defendant that he did not observe any of the patrons conduct themselves in an indecent manner nor did he hear any of them try to make dates with one another to go outside of the premises; that he did not have any conversation with the bartender or Marion Brown to ascertain whether they knew that any apparent homosexuals were in the premises.

"Agent 'R' testified that at 11:00 p.m. on Saturday, April 21, 1956, he and Agent 'D' visited defendant's licensed premises; that John Iannicelli and a man called 'Pat' were tending bar; that Marion Brown and Leo Martin (subsequently identified as the secretary of the defendant corporate-licensee) were in the premises; that there were approximately sixty patrons when he and Agent 'D' entered and that the number of patrons remained constant during the evening; that about forty-five of the patrons appeared to be homosexuals in that '*** they sat in groups of threes, two, threes and fours and they spoke in a high-pitched voice similar to that of a female; they dressed, they were dressed in male attire but I observed two of them had their collars turned up similar to that which is worn by a female; they held their cigarettes in the manner which I have only seen a female hold it; when they walked they swayed their

hips and in the manner in which their hair was fixed, although it was cut mannish, it appeared to be more or less set; and they congregated in these groups of two, threes and fours; they spoke, my impression they spoke like a woman at a sewing party, giggling and laughing and they held their heads together and at times gave me the impression that if I had closed my eyes, I didn't know I was in the presence of males. I would say I thought I had been among a bunch of females'; that 'on several occasions they referred to each other as Dearie, Doll, Darling'; that he heard a conversation wherein one male said to another male, 'Well, I think I will wait for my husband'; that at midnight two females entered the premises and one said to the other 'It looks like we're the only girls in here'; that the bartender called 'Pat' was standing in front of two men called Sparky and Ralph and in response to the girl's remark, Sparky said, 'No, you're not' and glancing around the place added, 'They're all girls in here'. 'Pat', the bartender, then said to Sparky and Ralph, 'She don't have to be afraid of any of these people in here. The only ones they have to worry about is me, you (referring to Sparky) and you, Ralph' and then said, 'The rest aren't interested'; that he (Agent 'R') said to 'Pat' as he ordered another drink from him 'What are all these guys in here? Queers?' and as 'Pat' looked around he answered, 'Most of them are'; that at 1:00 a.m. on the morning of April 22, he (Agent 'R') identified himself to Leo Martin and Marion Brown and the four, including Agent 'D' proceeded to the kitchen; that in response to his inquiry of Leo Martin concerning the patrons, Martin said that they appeared to him to be homosexuals but he had no knowledge that anyone was ever 'propositioned' by any of the apparent homosexuals and that he had no conclusive evidence that they actually were homosexuals; that he was under the impression that as long as these patrons did not solicit or proposition anyone, it was perfectly all right for them to congregate in the premises; that when questioned about the legend on the match book cover about the place being 'The Gayest Spot in Town', he said he ordered the items but it was a mere coincidence that they referred to the gaiety of the establishment; that when Marion Brown was questioned, she admitted that although the patrons appeared to be homosexuals by their actions, she could not be positive that they were and there posed the question, 'Is it against the law to serve these kind of people?'. On cross-examination, Agent 'R' further testified that no indecent acts were committed on the premises while he was there.

"It was stipulated by the respective attorneys that if Agent 'D' were called by the Division as a witness in this proceeding, his testimony would be similar to that given by Agents 'M' and 'R' when he had accompanied them on their visits to defendant's licensed premises.

"Marion Brown called as a witness on behalf of defendant testified that she was present at the time in question and when the two ABC agents identified themselves and interrogated her with reference to which of the patrons in the establishment were homosexuals, she said, 'I won't say they were and I wouldn't say they weren't'; that 'I couldn't accuse any person of being a homosexual. I wouldn't know definitely'; that she never heard any patron refer to others as 'Honey, Darling or Dear' and 'If I shut my eyes, I would know they were men. I wouldn't say they were a group of women as testified'; that 'Some of our customers have very hearty voices I would say'; that the men patrons are in the majority because the premises is located across the street from the railroad and 'It's more or less a man's bar * * *'; that she never saw anything objectionable nor

did she observe any of the patrons dress or hold cigarettes any different than other men.

"Leo Martin testified that he did not see any person at any time in the establishment on the dates in question who were homosexuals; that he never observed any indecent conduct, heard any endearing terms by any men to others of their sex; that he never had any question in his mind that some of the persons in the establishment on April 21 were other than normal; that he had been in the entertainment business and 'should know'; that he ordered the match books, the covers of which referred to the fact that defendant's establishment was 'The Gayest Spot in Town', from a standard catalogue at the suggestion of the salesman.

"John V. Iannicelli testified that he has been employed for more than three years as a bartender in defendant's licensed premises; that he was present on the dates now under consideration and all the patrons appeared normal to him; that he did not hear any remarks by any person directed toward another expressing terms of endearment; that for the years he worked in the premises he never observed anything on the part of anyone that was indecent; that he did not observe anyone swishing and swaying when they walked nor did he hear giggling; that one is liable to hear loud talk by some patrons in order that they make themselves heard; and that more men than women patronize defendant's establishment because it is primarily a man's bar.

"Four witnesses produced by defendant testified that they are steady patrons of defendant and that at no time when they were in the establishment have they seen any males who appeared to be homosexuals.

"The attorney for the defendant contends in a written memorandum that the charges should be dismissed on technical grounds as a violation of Rule 4 of State Regulation No. 20 should have been alleged rather than Rule 5 of said Regulation because Rule 4 specifically refers to prohibition of 'female impersonators' on licensed premises. I do not agree with such contention because the gravamen of the charge is nuisance which encompasses the type of violation set forth herein. He further stressed that there was no testimony whatsoever to indicate that any overt acts of lewdness and immoral activity took place at any time on the licensed premises. Even though this contention is accurate, nevertheless, it clearly appears from the agents' testimony that a very large percentage of the male patrons were obviously homosexuals as evidenced by their appearance and actions, their manner of speech, walk, gestures and mannerisms.

"The congregating of so large a percentage of male patrons possessing the same general features, characteristics and mannerisms is more than a mere coincidence. Proper liquor control dictates that the congregating of homosexuals on licensed premises must be staunchly prohibited. To permit such persons to gather and congregate in large numbers as in the instant case is in itself detrimental to the public welfare and tends to encourage them to carry on their unnatural practices. In addition, innocent members of the public frequenting such premises, by being exposed to these conditions, may well be adversely affected. Cf. Re Kaczka and Trobiano, Bulletin 1063, Item 1.

"I have carefully considered the entire record in this case and the argument of counsel contained in the memorandum filed herein. I have also taken into consideration that no immoral activities or conduct whatsoever took place on defendant's licensed premises. The testimony of the agents attested to that fact. I recommend that defendant be found guilty of allowing, permitting and suffering its licensed premises to be conducted in such manner as to become a nuisance, pursuant to the charge preferred herein.

"Defendant has a prior adjudicated record. Effective September 15, 1947 its license was suspended by the local issuing authority for a period of two days for possession of a mislabeled beer tap. In view of the fact that such dissimilar violation occurred more than five years ago, I recommend that it should not be considered in fixing any penalty that may be imposed herein. Under the facts and circumstances appearing in the instant case, I recommend that the license of defendant be suspended for sixty days. Re Rutgers Cocktail Bar, A Corp., Bulletin 1133, Item 2."

No exceptions were taken to the Hearer's Report within the time limited by Rule 6 of State Regulation No. 16.

After carefully considering the facts and circumstances herein, I concur in the recommended conclusions in the Hearer's Report and adopt them as my conclusions herein. I shall suspend defendant's license for sixty days.

Accordingly, it is, on this 25th day of February, 1957,

ORDERED that Plenary Retail Consumption License C-31, issued by the City Council of the City of Asbury Park to The Paddock Bar, Inc., t/a Paddock Bar, 810-812 Cookman Avenue, Asbury Park, be and the same is hereby suspended for a period of sixty (60) days, commencing at 7:00 a.m. March 4, 1957, and terminating at 7:00 a.m. May 3, 1957.

WILLIAM HOWE DAVIS
Director.

3. DISCIPLINARY PROCEEDINGS - ORDER POSTPONING EFFECTIVE DATES OF SUSPENSION.

In the Matter of Disciplinary Proceedings against
BAMBOO GARDEN CORPORATION
3408 Bergenline Avenue
Union City, N. J.,
Holder of Plenary Retail Consumption License C-26, issued by the Board of Commissioners of the City of Union City.
-----)

O R D E R

BY THE DIRECTOR:

An order having been entered herein on January 23, 1957, suspending defendant's license for ten (10) days commencing at 3:00 a.m. January 29, 1957, and terminating at 3:00 a.m. February 8, 1957; and

It appearing that, prior to the entry of said order, defendant had accepted bookings for affairs to be held on its licensed premises on January 30, January 31 and February 1; and

It further appearing to my satisfaction that numerous innocent persons would be inconvenienced by the suspension heretofore scheduled;

It is, on this 28th day of January, 1957,

ORDERED that the ten-day suspension heretofore imposed, instead of commencing at 3:00 a.m. January 29, 1957, shall, in lieu thereof, commence at 3:00 a.m. February 4, 1957, and terminate at 3:00 a.m. February 14, 1957.

WILLIAM HOWE DAVIS
Director.

4. DISCIPLINARY PROCEEDINGS - SALE TO MINORS - SALE TO WOMEN OVER BAR IN VIOLATION OF LOCAL ORDINANCE - PRIOR VIOLATION OF PREDECESSOR IN INTEREST NOT CONSIDERED BECAUSE OF LAPSE OF TIME - LICENSE SUSPENDED FOR 40 DAYS, LESS 5 FOR PLEA.

STATUTORY AUTOMATIC SUSPENSION - PETITION TO LIFT GRANTED AT EXPIRATION OF SUSPENSION IN DISCIPLINARY PROCEEDINGS.

In the Matter of Disciplinary Proceedings against)

LUCKY'S TAVERN, INC. (A Corp.))
T/a LUCKY'S)
32-34 French Street)
New Brunswick, N. J.,)

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consumption License C-79, issued by the Board of Commissioners of the City of New Brunswick.)

Auto. Susp. #130)

In the Matter of a Petition by)

LUCKY'S TAVERN, INC. (A Corp.))
T/a LUCKY'S)
32-34 French Street)
New Brunswick, N. J.,)

ON PETITION
O R D E R

To Lift the Automatic Suspension of aforesaid license.)

Mayo and Weiner, Esqs., by Ralph Mayo, Esq., Attorneys for Defendant-licensee, Petitioner.

Edward F. Ambrose, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant has pleaded non vult to the following charges:

"1. You sold, served and delivered and allowed, permitted and suffered the sale, service and delivery of alcoholic beverages, directly or indirectly, to persons under the age of twenty-one (21) years, viz., Clare ---, age 17, on divers days between July and September 1956; Barbara ---, age 18, on August 16, 1956; Cornelius ---, age 18, on divers days between July and September, 1956; Robert ---, age 20, on October 18, 1956 and divers days prior thereto and Lawrence ---, age 20, on October 21, 1956 and divers days prior thereto; and allowed, permitted and suffered the consumption of alcoholic beverages in and upon your licensed premises by said Clare ---, Cornelius ---, Robert --- and Lawrence --- on the above stated respective dates; in violation of Rule 1 of State Regulation No. 20.

"2. On December 18 and 21, 1956, you served alcoholic or other beverages to women directly over a bar and permitted women to drink such beverages at a bar on your licensed premises; in violation of Section 26 of an ordinance adopted by the Board of Commissioners of the City of New Brunswick on February 7, 1939, as amended September 1, 1942."

Acting upon information obtained from the New Brunswick Police Department, ABC agents obtained statements from each of the minors mentioned in Charge 1 and also obtained statements which had previously been given by several of the minors to members of said Police Department.

In statement obtained from Clare --- she alleges that she was born on October 12, 1939; that, on unspecified dates between July and September 1956, she visited defendant's premises and was served beer by Murray Roth (a bartender) and William Anklowitz (president of defendant corporation); that in September 1956 she was questioned as to her age by the person who served her; that she told this person that she was seventeen years of age and that she was thereafter served alcoholic beverages.

In statement obtained from Barbara --- she alleges that she is eighteen years of age; that on August 16, 1956, William Anklowitz served a glass of beer to her but that she did not drink the beer.

In statements obtained from Cornelius --- he alleges that he is eighteen years of age; that he visited defendant's premises about seven times shortly before or after August 11, 1956, and on each visit purchased and consumed drinks of beer served to him by Murray Roth.

In statements obtained from Robert --- he alleges that he is twenty years of age; that he visited defendant's premises and purchased alcoholic beverages on numerous dates during the past year and specifically states that on October 18, 1956, he purchased and consumed two glasses of beer served by Murray Roth; that no one questioned him as to his age and that he has seen Clare --- and Barbara --- drinking alcoholic beverages on the premises.

In statements obtained from Lawrence --- he alleges that he is twenty years of age; that he started to visit defendant's premises about a year ago; that on his first visit he displayed an old Army Reserve card which he had found and which indicated that the person to whom it was issued was twenty-one years of age; that thereafter, and particularly on October 21, 1956, he was served glasses of beer by Murray Roth and William Anklowitz without further question and that he observed alcoholic beverages being served to Clare ---, Barbara --- and Robert ---.

During a visit to defendant's premises on December 18, 1956, ABC agents observed John R. Saltvedt (a bartender) place on the back-bar several glasses of alcoholic beverages, the contents of which were consumed by a waitress, and during a visit on December 21, 1956, they observed the same bartender place on the back-bar several glasses of alcoholic beverages, the contents of which were consumed by the same waitress and another waitress. After the agents identified themselves, the bartender told them that he "never actually considered that section a portion of the bar." In my opinion it was.

On January 18, 1957, defendant corporation was found guilty in the New Brunswick Municipal Court on a charge of

selling alcoholic beverages to one of the above minors (Clare) in violation of R. S. 33:1-77 and fined \$100.00. Said conviction resulted in the automatic suspension of its license for the balance of its term. R.S. 33:1-31.1. On January 23, 1957, ABC agents picked up defendant's license and it has not operated under its license since said time. A petition requesting the lifting of said suspension has been filed with me. R. S. 33:1-31.1.

The attorney for defendant has submitted a letter which he has asked to be considered in mitigation of the penalty to be imposed. The facts set forth in his letter, however, do not coincide to a great extent with the reports of the ABC agents.

Defendant has no prior adjudicated record. It does appear that, when William Anklowitz (president of the corporation) held a license in his own name for 129 Albany Street, New Brunswick, his license was suspended by the local issuing authority for five days beginning January 13, 1947, for an "hours" violation, and by the then Commissioner for one hundred twenty days beginning July 16, 1947, for possessing illicit liquor (Bulletin 772, Item 2). Because these dissimilar violations occurred more than five years ago, they will not be considered in fixing penalty herein (Re Polato, Bulletin 1145, Item 11). It also appears that in 1942 and 1943 a license held by Almac Tavern (in which stockholders of defendant corporation had an interest) was twice suspended and later revoked. Because these violations occurred more than ten years ago, they will not be considered in fixing penalty herein (Re Stefura, Bulletin 1090, Item 3).

The file herein discloses that Clare was only sixteen years of age when alcoholic beverages were served to and consumed by her. The minimum penalty for sale to a sixteen-year-old minor is twenty-five days, to which ten days will be added because of the number of minors involved. Cf. Re Fox, Bulletin 1137, Item 2. I shall suspend defendant's license for an additional five days on Charge 2 (Re Pennington, Bulletin 1132, Item 8). From the total suspension of forty days, five days will be remitted for the plea, leaving a net suspension of thirty-five days, to be effective from January 23, 1957, when the licensee ceased to operate pursuant to the automatic suspension of its license.

As to the petition to lift, I shall grant the relief requested upon the expiration of the aforesaid suspension.

Accordingly, it is, on this 11th day of February, 1957,

ORDERED that Plenary Retail Consumption License C-79, issued by the Board of Commissioners of the City of New Brunswick to Lucky's Tavern, Inc. (A Corp.), t/a Lucky's, for premises 32-34 French Street, New Brunswick, be and the same is hereby suspended for thirty-five (35) days, effective January 23, 1957, and terminating at 6:00 a.m. February 27, 1957; and it is further

ORDERED that the statutory automatic suspension herein will be lifted, effective at 6:00 a.m. February 27, 1957, at which time the license will be restored to full force and operation. Until that time the statutory automatic suspension remains in effect.

WILLIAM HOWE DAVIS
Director.

5. DISCIPLINARY PROCEEDINGS - SALE TO MINORS - PRIOR RECORD - LICENSE SUSPENDED FOR 35 DAYS, LESS 5 FOR PLEA - PREMISES CLOSED - FURTHER ORDER TO BE ENTERED UPON REOPENING.

In the Matter of Disciplinary Proceedings against SHIRLEY SIEGEL T/a CLUB MIAMI 109 Beachway Keansburg, N. J.,

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-36, issued by the Borough Council of the Borough of Keansburg.

Saul C. Schutzman, Esq., Attorney for Defendant-licensee. Edward F. Ambrose, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant has pleaded non vult to a charge alleging that she sold, served and delivered alcoholic beverages to four minors and permitted the consumption of such beverages by said minors in and upon her licensed premises, in violation of Rule 1 of State Regulation No. 20.

The file herein discloses that ABC agents obtained signed sworn statements from Charles --- (age 17), Thomas --- (age 18) and Joseph --- (age 20) respecting the aforesaid alleged violation. Charles stated that he and Robert --- (age 18) entered defendant's licensed premises about 11:15 p.m. Saturday, May 19, 1956, and remained there until closing time; that during their stay each consumed two bottles of beer; and that he observed Thomas and Joseph seated at the bar. Thomas and Joseph stated that on the dates alleged they each consumed four bottles of beer in defendant's licensed premises and all of them stated that the alcoholic beverages were served to them by a bartender who made no inquiry as to their ages.

Defendant has a prior adjudicated record. She held a license from May 21, 1940 to March 7, 1941, when it was transferred to Club Rhumba, Inc. (in which Albert Siegel was 80% shareholder, president and director and Shirley Siegel, secretary). The Club Rhumba, Inc. license was revoked by the Director on August 19, 1946 for purchase of alcoholic beverages from an undisclosed source and for sale and storage of alcoholic beverages beyond the scope of the license (Re Club Rhumba, Inc., Bulletin 726, Item 1). On November 6, 1946, the licensee herein obtained the current license. Defendant's license was suspended by the local issuing authority as follows: Effective September 23, 1940 -- 4 days for sales to minors; effective September 22, 1948 -- 2 days for mislabeled beer tap; effective May 3, 1954 -- 10 days for sales to minors. Defendant was warned by letters from this Division on June 28, 1955 with respect to an alleged indecent show, and on October 13, 1955 with respect to sales to minors. The following suspensions were imposed against the Club Rhumba, Inc.: Fifteen days by the local issuing authority, effective April 1, 1943, for sales to minors and fifteen days by this Division, effective April 3, 1944, for possession of illicit alcoholic beverages (Re Club Rhumba, Inc., Bulletin 598, Item 10). The minimum penalty imposed for a violation involving a seventeen-year-old minor is twenty days (Re Jackson, Bulletin 1109, Item 5).

Because of the similar violation which occurred within a five-year period, the number of minors involved herein and the warning letter dated October 13, 1955, I shall suspend defendant's license for thirty-five days and remit five days for the plea entered herein, leaving a net suspension of thirty days.

Investigation discloses that defendant conducts her business on a seasonal basis. Thus, no effective penalty can be imposed at the present time. The effective dates for suspension herein will be fixed by further order to be entered after the licensed premises shall have opened for business for the 1957 season. Cf. Re DeFreitas, Bulletin 1051, Item 5.

Accordingly, it is, on this 6th day of February, 1957,

ORDERED that Plenary Retail Consumption License C-36, issued by the Borough Council of the Borough of Keansburg to Shirley Siegel, t/a Club Miami, 109 Beachway, Keansburg, be and the same is hereby suspended for a period of thirty (30) days, the time to be fixed by subsequent order as aforesaid.

WILLIAM HOWE DAVIS
Director.

6. DISCIPLINARY PROCEEDINGS - SALES TO MINORS - PRIOR RECORD - LOCUS POENITENTIAE - LICENSE SUSPENDED FOR 15 DAYS.

In the Matter of Disciplinary Proceedings against)

STEPHEN KRYWUCKI & CATHERINE KRYWUCKI)
T/a THE HAPPY BAR)
300-302 Broad Street)
Beverly, N. J.,)

CONCLUSIONS
AND ORDER

Holders of Plenary Retail Consumption License C-3, issued by the Common Council of the City of Beverly.)

Salvatore J. Avena, Esq., Attorney for Defendant-licensees.
Edward F. Ambrose, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

The Hearer has filed the following report herein:

"Defendants have pleaded not guilty to the following charge:

'On July 6, 1956, you sold, served and delivered and allowed, permitted and suffered the sale, service and delivery of alcoholic beverages, directly or indirectly, to a person under the age of twenty-one (21) years, viz., Richard ---, age 19, U. S. Navy, and allowed, permitted and suffered the consumption of alcoholic beverages by such person in and upon your licensed premises; in violation of Rule 1 of State Regulation No. 20.'

"Richard ---, nineteen years of age, testified that on July 6, 1956, he and two male companions drove to defendants' licensed premises, arriving in the vicinity thereof at

approximately 8:55 p.m.; that he entered the premises and was served a glass of beer by a person whom he later identified as John Fenimore, a bartender; that he also purchased three one-quart bottles of beer for off-premises consumption and that he then returned to the car and rejoined his two companions.

"Terrance B. --- and Patrick J. --- testified that they remained in the car on the date in question while Richard went into defendants' licensed premises; that Richard came out of said premises with a bag containing three one-quart bottles of beer, entered the car and drove away from the premises. All the witnesses were in agreement that they were apprehended by the local police within a short time after leaving the vicinity of the licensed premises.

"An ABC agent testified that at 'about 9:30 or 9:40 p.m.' on July 6, 1956, he was called to police headquarters and after interviewing Richard, Terrance and Patrick and just prior to midnight, he and another agent, accompanied by the three youths and a police Captain, drove, at the direction of the youths, to defendants' licensed premises; that he entered the premises accompanied by Richard and the police officer and after identifying himself to Stephen Krywucki, one of the defendant-licensees, all went into the service room; that just as he was explaining his mission to the licensee aforementioned, Richard pointed out John Fenimore, who was preparing a sandwich, as the person who served him with alcoholic beverages that evening; that when apprised of this, Fenimore said, 'I might have. I can't say yes and I can't say no. I might have.'

"Another ABC agent testified that he was at police headquarters when the youths were interviewed and thereafter went to defendants' licensed premises and remained in the car with Terrance and Patrick while his fellow-agent, Richard and the police officer went into the premises.

"Stephen Krywucki testified that although he was not present in the licensed premises at 8:55 p.m. on July 6, 1956, he was present on said evening at the time the agent, police officer and Richard came into the premises. He further testified that when John Fenimore was pointed out by Richard as the man who had served him alcoholic beverages that evening, Fenimore said, 'I haven't seen him before'.

"John Fenimore testified that he was on duty as bartender on the evening of July 6, 1956; that when he was accused of selling alcoholic beverages to Richard, he denied that he had done so. Under cross-examination, Fenimore testified that he was very busy on the evening in question and admitted that he might have said in the presence of the agent with reference to Richard, 'I might have served him'.

"I have carefully examined all the testimony adduced herein and am satisfied that Richard was sold and served beer in accordance with his testimony. The identification of John Fenimore who was tending bar at the time in question was made by Richard within a few hours after the alleged violation occurred. Furthermore, according to the record, Richard in the presence of the licensee and the law-enforcement officer, immediately recognized Fenimore as the person who sold him the beer. I, therefore, recommend that the defendants be found guilty of the charge preferred herein.

"Defendants have a prior adjudicated record. Effective July 23, 1956 their license was suspended by the State Director

for ten days for a similar violation as that committed herein. Re Krywucki, Bulletin 1128, Item 9. However, since the violation herein preceded the suspension in that case, no locus poenitentiae intervened and the prior violation will not be considered in the same manner in which a second similar violation is ordinarily considered. See Re Drayman Family Corporation, Bulletin 946, Item 2. In order to constitute a second similar violation, it must appear that there is an adjudication of guilt followed by punishment, and then, still unregenerate, a subsequent violation and adjudication. Re Capestro and Friedlander, Bulletin 1000, Item 9. Yet, the prior record cannot be ignored but must be considered as aggravating the present violation. See Drayman Family Corporation, supra.

"Under the circumstances, I recommend that instead of doubling the usual fifteen-day penalty (Re Mercantini & Rossi, Bulletin 1124, Item 12), defendants' license in this case be suspended for twenty days."

No exceptions were taken to the Hearer's Report within the time limited by Rule 6 of State Regulation No. 16.

After careful examination and consideration of all the evidence presented herein, I find the defendants guilty of the charge preferred herein as recommended by the Hearer. However, with reference to the suspension to be imposed, I shall not consider the prior record in aggravation of the present violation, notwithstanding it is my practice to do so, for the reason that the licensees readily admitted the sale to the minor in the prior case, cooperated fully with our agents in the investigation and further the agents' report of investigation in that case discloses that the minor appeared to be at least two years older than his correct age. I shall, therefore, suspend defendants' license for a period of fifteen days. Cf. Re Goldere, Bulletin 1110, Item 1.

Accordingly, it is, on this 30th day of January, 1957,

ORDERED that Plenary Retail Consumption License C-3, issued by the Common Council of the City of Beverly to Stephen Krywucki & Catherine Krywucki, t/a The Happy Bar, 300-302 Broad Street, Beverly, be and the same is hereby suspended for a period of fifteen (15) days, commencing at 1:00 a.m. February 6, 1957, and terminating at 1:00 a.m. February 21, 1957.

WILLIAM HOWE DAVIS
Director.

7. DISCIPLINARY PROCEEDINGS - SALES TO MINORS - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

EDWARD MOSKOVITZ)
 T/a HAMPSHIRE BAR)
 201 N. New Hampshire Ave. and)
 121 Madison Ave.)
 Atlantic City, N. J.,)

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-236, issued by the Board of Commissioners of the City of Atlantic City.)

 Edward Moskovitz, Defendant-licensee, Pro se.
 Edward F. Ambrose, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant has pleaded non vult to a charge alleging that on December 13 and 17, 1956 and on divers days prior thereto, he sold, served and delivered alcoholic beverages to two minors and allowed, permitted and suffered the consumption of such beverages by said minors in and upon his licensed premises, in violation of Rule 1 of State Regulation No. 20.

The file discloses that ABC agents, acting upon information transmitted by the State Police, obtained signed sworn statements from Donald ---, age 19, Richard ---, age 19, and their two minor female companions respecting the alleged violation charged herein. Donald stated that on Monday night, December 17, 1956, he and the other minors drove to the vicinity of defendant's licensed premises and that he parked his car across the street therefrom; that he alone entered defendant's tavern wherein he consumed a glass of beer served to him by the licensee from whom he also purchased a case of beer which he carried to his car. He stated further that on the night of December 13, 1956, he and Richard were each served glasses of beer by the same person in the same tavern; that on nine or ten previous occasions he purchased and consumed beer or vodka therein; and that on none of his visits was he required to produce any proof of age. Richard and the two females stated that they saw Donald emerge from defendant's tavern carrying a case of beer and Richard confirmed Donald's statement respecting their activities on the night of December 13, 1956 on which occasion Richard stated that he and Donald each had three glasses of beer and that neither was questioned as to his age. On December 18, 1956 the four minors directed the agents to defendant's licensed premises which three of them pointed out as the place from which Donald emerged with the case of beer and Donald identified therein Edward Moskovitz, the licensee herein, as the person from whom he and Richard purchased the alcoholic beverages.

Defendant has no prior adjudicated record. I shall suspend defendant's license for fifteen days less five days for the plea entered herein, leaving a net suspension of ten days. Cf. Re Murray, Bulletin 1109, Item 8.

Accordingly, it is, on this 31st day of January, 1957,

ORDERED that Plenary Retail Consumption License C-236, issued by the Board of Commissioners of the City of Atlantic City to Edward Moskovitz, t/a Hampshire Bar, 201 N. New Hampshire Ave. and 121 Madison Ave., Atlantic City, be and the same is hereby suspended for a period of ten (10) days, commencing at 7:00 a.m. February 11, 1957, and terminating at 7:00 a.m. February 21, 1957.

WILLIAM HOWE DAVIS
Director.

8. STATE LICENSES - NEW APPLICATION FILED.

Joeli Wine Distributors, Inc.
T/a Pirrone Wine Sales
217 Division Avenue
Garfield, N.J.

Application filed March 27, 1957 for person-to-person transfer of Wine Wholesale License WW-36 from Joseph J. Perrone, t/a Pirrone Wine Sales and Abbey Wine Co.



William Howe Davis
Director.